

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.06.2015

DELIVERED ON : 03.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.14504 of 2015

and

M.P.Nos.1 and 2 of 2015

B.K.Ravi

...Petitioner/Accused

Vs

B.M.Ramachandran

...Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.2 of 2015 on the file of learned District Munsif Cum Judicial Magistrate, Vaniyambadi, Vellore District and quash the entire proceedings.

For Petitioner

:

Mr.G.Vinodh Kumar

[No appearance]

ORDER

This petition has been filed to call for the records in C.C.No.2 of 2015 on the file of learned District Munsif Cum Judicial Magistrate, Vaniyambadi, Vellore District and quash the entire proceedings.

2. This case has been pending since 16.06.2015 at the instance of the petitioner. On 24.06.2015, the matter was posted "For orders finally on 29.06.2015". When the matter was taken up on 29.06.2015, there was no representation for the petitioner. Therefore, this Court reserved orders. This Court went into the pleadings.

3. For the sake of convenience, the parties will be referred to as the complainant and the accused.

4. It is the case of the complainant that, he and his mother are doing agency business in the name and style of M/s K.R.S Agencies and in the course of this business, the accused came in contact with him and had purchased tamarind seeds. Towards the purchase, the accused was due a sum of Rs.45 lakhs. In discharge

of his liability, he issued seven post dated cheques, which when presented were dishonoured. After the issuance of statutory notice, when the accused did not repay the amount, the complainant lodged a complaint under Section 138 of the Negotiable Instruments Act before the learned District Munsif cum Judicial Magistrate, Vaniyambadi, which has been taken on file as C.C.No.2 of 2015, challenging which the accused is before this Court.

5. From the grounds raised it is the contention of the accused that, the transaction took place between the complainant and M/s K.R.S Agencies and therefore, there is no legally enforceable debt as against the accused. On a reading of the complaint it is seen that, the accused has issued his cheques in favour of the complainant for the transactions he had with M/s K.R.S Agencies as well with the complainant individually. M/s K.R.S Agencies is a concern in which the complainant and his mother are together running. Whether there is a legally enforceable debt or not is a question of fact which has to be gone into only during trial. Prosecution under Section 138 of the Negotiable Instruments Act cannot be stifled at the threshold as held by the Supreme Court in S.Krishnamoorthy v. Chellammal 2015 (4) Scale 371.

In the result, this petition is devoid of merits and the same is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

gms

To

1.District Munsif Cum Judicial Magistrate,  
Vaniyambadi, Vellore District.

2.The Public Prosecutor  
High Court, Madras.

1 CC to Mr.G.Vinodh Kumar, Advocate SR.No. 33158

Cr1.O.P.No.14504 of 2015

SAI (CO)  
PSI (07.07.2015)